IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CENTRAL EXCISE & CUSTOMS GOLD CONTROL AP No 33 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF CENTRAL EXCISE& CUSTOMS

Versus

GOYAL SILK MILLS PVT. LTD.

Appearance:

MS PJ DAVAWALA for Petitioner No. 1

MR CHETAN K PANDYA for Respondent No. 1

CORAM : MR.JUSTICE B.C.PATEL
and
MR.JUSTICE D.A.MEHTA

Date of decision: 04/12/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE B.C.PATEL)

1 The Commissioner of Central Excise & Customs, Surat-1 has filed this application under the provisions contained in Section 35H(1) of Central Excise Act,1944 read with Section 218(1) of Central Excise Rules,1944. The application is on verification. Paragraph 10 of the

application reads as under :

"10. The documents of Copies specified below (the translation in English of the documents, where necessary is annexed) be forwarded to the High Court with the statement of the case.

1.OIO No.65/MP/94 Dt.26.12.94.

2.CEGAT Order No. C-I/64/WZB/2001 dated 08.01.2001."

2 Though in the verification it is stated that these two documents are annexed, the learned Counsel could not point out annexures with the application. Along with application, Annexure "A" and Annexure "B" are tendered which are referred in paragraphs 7 & 8 of the form of the application made under Section 35H(1) of the Central Excise Act,1944. Thus, mechanically the papers are filed in the High Court. When the Court after scrutinizing put the question the learned Advocate very lightly stated that by mistake or by oversight the documents are not annexed and therefore the time may be given. This cannot be permitted. It was the duty of the Advocate who filed the application to be more careful and vigilant, more particularly, when the Advocate is dealing with the matter pertaining to the Revenue, the better care is required to be taken. Verification is dated 9/4/2001 and till the matter is called out it seems that the papers have not been examined otherwise the learned Advocate would have been known that these two documents are not annexed. Therefore,the application is rejected. Rule discharged with no order as to costs.

Sd/- Sd/-

(B.C.Patel, J) (D.A.Mehta,J)

m.m.bhatt